

Board Members

Maryann Santos de Barona, Ph.D.
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James J. Cox, Ed.D.
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Joseph C. Donaldson
Secretary
Wil R. Counts, Ph.D.
Manuel H. Delgado, Jr., J.D.
Miki Paul, Ph.D.
Byron N. Rimm
Michael J. Rohrbaugh, Ph.D.
David P. Yandell, Ph.D.



State of Arizona Board of Psychologist Examiners

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Staff

Maxine McCarthy
Executive Director

Marcus E. Harvey
Deputy Director

David S. Shapiro
Investigator

Shari S. Courtney
Administrative
Assistant

TELEPHONE CONFERENCE CALL MINUTES

Friday, June 18, 2004

Regular Session
1400 West Washington, Ste. 235
Phoenix, Arizona 85007

1. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairperson Santos de Barona at 7:30 a.m. on Friday, June 18, 2004. No Executive Sessions were held.

2. ROLL CALL

Board Members Participating by Telephone

Maryann Santos de Barona, Ph.D. - Chairperson
James J. Cox, Ed.D. - Vice-Chairperson
Wil R. Counts, Ph.D.
Miki Paul, Ph.D.
Michael J. Rohrbaugh, Ph.D.

Staff Present

Maxine McCarthy, Executive Director
Marcus Harvey, Deputy Director

Attorney General's Office

Nancy J. Beck, J.D.
Assistant Attorney General

Board Members Not Participating

Joseph C. Donaldson - Secretary
Manuel H. Delgado, Jr., J.D.
Byron N. Rimm
David P. Yandell, Ph.D.

Solicitor General's Office

Christine Cassetta, J.D.
(Participating by telephone)

3. WALTER E. FIDLER, Ph.D. – No. 04-11

Discussion/Decision Regarding Counsel's Letter Dated 6/9/04; Possible Action:

No Action, Rescission of Summary Suspension, and Action Authorized By A.R.S. § 32-2081, including Summary Suspension

Maxine McCarthy, Executive Director, reminded the Board that it had voted to summarily suspend the license of Walter Fidler, Ph.D. at its meeting of June 4, 2004. While the Order was being prepared, however, Nancy Beck, Assistant Attorney General, had received a letter dated June 9, 2004 from Stephen Myers, J.D., Dr. Fidler's attorney, alleging that the Board violated the Open Meeting Law in connection with Dr. Fidler's case. The letter also requested that the Board not issue the Order of Summary Suspension. Ms. McCarthy stated that although she was not in agreement with Mr. Myers' letter regarding the Open Meeting Law, in an abundance of caution she had returned this matter to the Board under a reworded agenda that listed the Board's options.

Ms. Beck also stated that she disagreed with the arguments of Mr. Myers, but that she would recommend that the Board rescind the Order of Summary Suspension and either vote to hold an informal interview or formal hearing. Dr. Fidler was present with his attorney, Mr. Myers, who made a statement to the Board. Board members then proceeded to discuss the case. A motion was made by Dr. Cox, seconded by Dr. Counts, and unanimously carried (5-0), to rescind the Board's Order of Summary Suspension of Dr. Fidler. Dr. Cox then made a motion which seconded by Dr. Counts to invite Dr. Fidler to an informal interview to address allegations that he violated A.R.S. § 32-2061(A)(13)(a), (b), (h), (o), (y), and (bb) in that:

- His billing records show several instances where more than one session was held in a day's time; a review of the case notes does not show that multiple sessions were necessary.
- His billing records show that many sessions were held only a few days apart; generally insurance companies do not pay for services provided less than seven days apart.
- The records he provided to the Board did not contain any forms showing a release of confidentiality or release of records for a psychologist, a psychiatrist and for attorneys.
- His records contained case notes that fall beneath the current standards of practice; the records lack content and did not consider alternatives to the treatment he provided. The treatment was described as "insight therapy."
- The records, although reflecting an initial case plan, do not show that the case plan was ever reviewed or revised even after 169 sessions.
- Although his records show that the client was involved in marital therapy, there is no case record to indicate that any marital therapy was done.
- An internet-based personality assessment was apparently used with this client. The record of that assessment shows very nebulous results, some of which do not appear to even correspond to the client's test data. No test results were provided and the test used may not have been valid.
- He wrote a letter of support for the client at a time when the client owed him a substantial amount of money. This may have compromised what he wrote in the letter.
- He initially offered a diagnosis of Major Depression. Based on the treatment plan, medication was suggested as a treatment modality. A psychiatric evaluation yielded a different diagnosis, with a determination that medication would not be necessary. A later psychological evaluation suggested yet another diagnostic possibility. A letter he wrote to client's counsel on August 7, 2003 suggested PTSD. The diagnostic differences were never addressed in the case notes, nor was the treatment plan changed to reflect the psychiatrist's determination that medication was not needed.
- He developed a "promissory note" in the amount of \$5000 with the client. The details of this note included a payment schedule that would have placed the client in default.
- The client's balance was allowed to reach a very high level, which could be expected to compromise the treatment effectiveness.
- He did not provide all of the records pertaining to the complaint to the Board in a timely manner.

4. ADJOURNMENT

There being no further business to come before the Board, a motion was made by Dr. Paul, seconded by Dr. Cox, and unanimously carried (5-0), to adjourn the meeting at 7:56 a.m.

Prepared by:

**Marcus Harvey
Deputy Director**

Respectfully submitted,

**/s/ James J. Cox, Ed.D.
Vice-Chairperson**